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August 17, 1998

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

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AUG 17 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: In the Matter of  
Access Charge Reform for  
Incumbent Local Exchange Carriers  
Subject to Rate-of-Return Regulation  
CC Docket No. 98-77

Dear Ms. Salas:

Enclosed for filing on behalf of ALLTEL Communications Services Corporation ("ALLTEL") please find an original and sixteen (16) copies of its comments in connection with the above-referenced matter.

Also, in accordance with the Commission's Notice of Proposed Rulemaking dated June 4, 1998, I am sending two copies of ALLTEL's comments to the Competitive Pricing Division.

Please address any questions respecting this matter to the undersigned counsel.

Very truly yours,

Carolyn C. Hill

CCH/ss

Enclosures

cc: (w/encl.)  
Kathryn C. Brown, Chief, Common Carrier Bureau  
Competitive Pricing Division  
International Transcription Service, Inc.

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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Comments of  
ALLTEL Communications Services Corporation

ALLTEL Communications Services Corporation, on behalf of its local telephone exchange affiliates (hereinafter "ALLTEL" or the ALLTEL companies"), respectfully submits its comments on the Commission's Notice of Proposed Rulemaking ("NPRM") released June 4, 1998, in the above-captioned matter.

**Introduction**

In earlier filed comments and reply comments in CC Docket No. 96-262, ALLTEL argued that access reform should not be delayed for rate-of-return LECs, such as the ALLTEL companies. However, in its First Report and Order adopted May 7, 1997, in that proceeding, the Commission deferred consideration of access reform for rate-of-return companies, promising to address this issue in a separate proceeding in 1997. The instant NPRM represents that effort.

The ALLTEL comments herein focus on Item I (Introduction) and Item II (Rate Structure Modifications) of the NPRM. They also address why the controversial pricing

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construct for price cap LECs should not be adopted for rate-of-return LECs and why it is imperative that pricing flexibility be granted now to the ALLTEL rate-of-return LECs.

**The Overlay of a Controversial Price Cap Construct Is Not Appropriate**

In the NPRM, the Commission begins with the premise that the price cap access reform plan is correct for rate-of-return LECs and challenges them to prove otherwise. It basically proposes to overlay the changes adopted in CC Docket No. 96-262 for price cap LECs to rate-of-return LECs and to slightly modify those changes to come up with proposed access rule changes for rate-of-return LECs. Regrettably, this will not result in meaningful access reform for the ALLTEL rate-of-return LECs.

It is inconsistent with the Commission's stated goals of achieving economic efficiency and advancing competition for it to concentrate on micromanaging an out-moded system of access charge regulation while deferring consideration of fundamental issues such as pricing flexibility. Specifically, the NPRM fails to address the need of the ALLTEL companies for pricing flexibility and for elimination of the Part 69 pooling rule that forces companies to make uneconomic decisions. It is only with this type of change that true access reform will occur.

If access reform is to be achieved, the ALLTEL companies, as discussed below, need the ability to manage prices effectively, including implementing geographically deaveraged rates, and to offer volume and term discounts on switched services, and they need to be able to make these decisions on a study area-by-study area basis for all access rates and services.

### **The ALLTEL Companies Do Not Have Market Power**

The ALLTEL LECs are located in fourteen (14) states and collectively have approximately 1.6 million access lines. They are “rural telephone” companies within the meaning of Section 153(37) of the Communications Act. Though by definition these companies are classified as “rural”, they nonetheless face increasing competitive pressures as the interexchange and local landscapes are reshaped and as barriers to entry are dismantled. The ALLTEL companies are not immune to or insulated from the effects of competition. In markets such as Cleveland, Atlanta, Houston, Charlotte, and Pittsburgh, exchanges of ALLTEL companies neighbor large metropolitan markets.<sup>1</sup> The proximity of many ALLTEL exchanges to areas in which competition already has emerged,<sup>2</sup> or will emerge as number portability and other pro-competitive measures are implemented, already places significant pressure on ALLTEL’s access charges.

The effect of an averaged, highly distortive access charge rate structure is to create pricing aberrations and economic inefficiency. The requirement to average access prices across a study area for ALLTEL’s markets containing low cost/high margin customers subjects these markets to further competitive pressures. As customers in these markets implement their alternatives, there is a “spiraling” effect which pushes additional costs to the next tier of customers and creates a new “artificial margin” that is pro-competitor rather

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<sup>1</sup> ALLTEL has over 350,000 lines in the five MSAs listed.

<sup>2</sup> For example, Bell South has signed interconnection agreements with MCI Metro, Intermedia and ACS in Charlotte and in Atlanta; Bell Atlantic has signed agreements with Eastern Telelogic and MFS in Pittsburgh; Ameritech has signed an agreement with Time Warner in Cleveland; and SBC has signed numerous agreements throughout Texas.

than pro-competition. Absent pricing flexibility, ALLTEL will continue to be disadvantaged relative to both new entrants and the price cap LECs.

ALLTEL needs the freedom to respond to competition in our geographically denser markets. We need the ability now to price access flexibly. It is unnecessary for the Commission to construct elaborate regulatory schemes for the rate-of-return LECs. ALLTEL has no market power in the access realm. Existing and potential competitors abound. Wireless and cable services may have the potential to provide substitutable services. IXC's monitor our access rates closely and carefully choose between ordering services provided via dedicated circuits or switched access or through alternate facilities. IXC's also have direct contact with our customers through their provision of long distance services. This allows them to continually "take the pulse" of these customers and attempt to correct imbalances by pressuring ALLTEL to adjust access rates.<sup>3</sup>

Competitors contend that incumbent LECs have bottleneck facilities and, therefore, enjoy an unfair competitive advantage. Incumbency in no way translates to an ability to control prices. ALLTEL does not have the financial reserves nor the economies (cost or ubiquity) to block entry through any form of anti-competitive pricing. The market for telecommunications is national if not global, in scope. The relatively small piece of the network controlled by ALLTEL and the related prices charged for that network have a negligible impact on the provision of broadly-based telecommunications services. In the evolving telecommunications market, the product has become an integrated package of

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<sup>3</sup> In their 1998 annual access filing, the ALLTEL companies reduced, excluding their NECA carrier common line pool rates, interstate access rates by \$26.5 million. Notwithstanding that this was a twenty-five percent (25%) rate reduction, AT&T petitioned to suspend and investigate the ALLTEL filing. This request was denied by the Commission.

services, including local calling, exchange access, long distance, internet access and wireless communications. When viewed in this light, the ALLTEL companies' lack of market power is evident.

Competition does not come to all service or geographic markets in the same way or at the same time. Nor are its impacts necessarily the same. The ALLTEL companies, relative to their neighboring LECs, serve a lower percentage of low cost/high margin customers as evidenced by our lower business-to-residence ratios. The loss then of one or more large customers can have a significant adverse impact on an ALLTEL LEC as contrasted with a larger LEC or a LEC with a higher business-to-residence ratio. This volatility alone underscores the need for pricing flexibility.

This situation has been presented to the Commission in the pending ATU Telecommunications ("ATU") Part 69 Waiver Request filed on June 22, 1998. ATU, a rate-of-return LEC, serves a concentrated urban market and faces competition for its access as well as its local services. One of its largest customers, AT&T Alascom, is considering changing to ATU's facilities-based competitor, GCI. GCI, unlike ATU, is able to offer volume and term discounts and other pricing incentives to AT&T Alascom. In order not to lose AT&T Alascom as a customer, ATU has been forced to file a Part 69 waiver with the FCC in order to have the ability to offer volume and term discounts. As pointed out in the ATU Waiver Petition, it is not requesting relief from competitors, it is simply asking for the right to participate in the highly competitive Anchorage local exchange and access market. (Anchorage Waiver Petition p. 11) In this regard, ALLTEL echoes ATU's position that if

a LEC is to lose a customer, it should be due to market competition among competitors on a level playing field and not because of an inefficient regulatory construct.

### **Pricing Flexibility Should Not be Granted After the Fact**

Under the current rate-of-return access charge regime, rural and urban customers pay averaged access rates. The result is rates that are too high to be sustained under competitive conditions in the rate-of-return LEC's larger markets. The Schmalensee and Taylor paper entitled, "The Need for Carrier Access Pricing Flexibility in Light of Recent Marketplace Developments," concluded that "deaveraging carrier access service prices by geographic area and class of customer more closely aligns rates with ILECs' costs and leads to efficiency improvements."<sup>4</sup> (NERA p. 13) The authors also concluded that such deaveraging is especially important in the early stages of competition because efficient entry decisions should be made on the basis of economic cost, not distorted price signals (*Id.*). The ALLTEL areas adjacent to larger markets will face competitive pressures first. This requires that the ALLTEL companies be able to respond to these competitive pressures in an expeditious manner. In such a situation, ALLTEL's rates need to reflect specific costs and conditions in those markets.<sup>5</sup> This is an important step towards efficient pricing. However, the ALLTEL companies should not be dependent on the arrival of a local exchange competitor or a request for unbundled network elements ("UNEs") before being granted the regulatory latitude to price in a manner that is reflective of conditions

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<sup>4</sup> The paper prepared by Schmalensee and Taylor of the National Economic Research Associates ("NERA") was filed as a USTA ex parte in CC Docket No. 96-262.

<sup>5</sup> Often areas within a LEC's study area are not contiguous and may have little relationship in terms of demographics, cost characteristics or calling patterns.

within the marketplace. After-the-fact regulatory relief is too reminiscent of an offer of fire insurance after the house has burned.

If a rate-of-return LEC is precluded from deaveraging its rates, economic distortions will result. Thus arbitrage can take place relative to pricing between UNEs and the LEC's services. Competitors then gain an unfair advantage over the rate-of-return LECs by (i) targeting low cost areas where some or all customers pay higher rates than are justified by costs, (ii) purchasing cost-based UNEs in that area and (iii) undercutting the LEC's rates. The ability of the rate-of-return LEC to deaverage its access rates would mitigate the undeserved opportunity for this type of arbitrage.

#### **Term and Volume Discounts**

Economic efficiencies are derived from having the ability to price flexibly and deaverage rates. However, there is a need for additional regulatory relief for rate-of-return LECs beyond deaveraging. Term and volume discounts that reflect cost efficiencies, combined with a customer-specific contract keyed to that customer's requirements, will promote proper utilization of telecommunications resources. They align the customer's needs with the rate-of-return LEC's costs. Further, they facilitate the ability to promptly respond to specific customer requests and to tailor appropriate service offerings. The latitude to provide such arrangements is imperative where customers have substitutes available within the market.

#### **The All or Nothing Rule Must Go**

In order to deaverage rates across study areas, Section 69.3(e)(9), the "all or nothing" rule, must be eliminated. The rule currently permits exit from the NECA



common line pool on a holding company basis rather than on the needed study area basis. Deaveraging and the ability to exit the NECA CCL pool on a study area basis are necessary predicates to access reform. ALLTEL serves diverse geographic areas. Customer or line density, a primary cost driver, is widely variant in the ALLTEL system with some exchanges serving as few as 20 lines per square mile and others close to 7,000 lines per square mile. This disparity in density underscores ALLTEL's need to be able to depool individual study areas to respond to competition.

This approach would be consistent with the Commission's current rules which: (1) permit LECs to exit, as circumstances warrant, the NECA traffic-sensitive pool on a study-area by study-area basis while (2) maintaining protections against cost shifting.

Finally, any perceived benefit to high cost LECs choosing to remain in the NECA common line pool from the Commission's requirement that exit from the pool be only on a holding company basis no longer exists. This was eliminated in the Commission's May 1997 decision in Universal Service, CC Docket No. 96-45, which provided for recovery by high-cost LECs of any required long term support and DEM Weighting on an explicit cost recovery basis rather than on an implicit basis through their access rates.

Accordingly, there is nothing to be achieved by requiring study areas with widely different characteristics to remain in the NECA common line pool on an "all or nothing basis."

### **Inadequacies with Proposed Structure - Why SLCs and PICCs Don't Work**

The structure the Commission proposes to impose on rate of return LECs is largely an overlay of the structure under which the price cap companies currently operate. At this time, there is no evidence that this structure is more efficient than the current access charge structure for rate of return LECs. If anything, there is substantial evidence that the introduction of PICCs has introduced a new level of confusion and controversy in an already turbulent environment with end users, IXC's, and even the Congress vigorously objecting to PICCs. The apparent notion of regulatory symmetry should not suggest - let alone dictate - the implementation of such a controversial approach to access reform for rate-of-return LECs.

In the NPRM, the Commission suggests that "rate-of-return LECs be allowed to move their rates to more economically efficient levels." (NPRM p. 2) ALLTEL is unconvinced that the introduction of new artificial rate elements, such as the PICC, coupled with the proposed changes to the SLC, will achieve an efficient result. If rate-of-return LECs are required to implement the price cap structure for PICCs and SLCs, this will be perceived by end users as an unwarranted local rate increase. In fact, the imposition of these charges will place rate-of-return LECs at a further competitive disadvantage. The implementation of this type of artificial pricing will result in customers making incorrect decisions in their selection of telecommunication services.

### **Conclusion**

Any viable access charge reform plan must afford rate-of-return LECs the ability to establish prices within broad guidelines. Absent this ability, ALLTEL will be unable to compete effectively within the marketplace. In essence, competitors and not competition will have been advanced. In the instant proceeding, the Commission has the opportunity to foster the development of economically efficient competition by granting rate-of-return LECs latitude with respect to pricing. It should do this now.

Respectfully submitted,

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